

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.4155 Purchase or exchange of annuity; recommendations; effort to obtain consumer's suitability information required; reasonable basis; exceptions; duties of responsible insurer representative.

Sec. 4155. (1) In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer if no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs, including the consumer's suitability information, and that there is a reasonable basis to believe all of the following:

(a) The consumer has been reasonably informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity, mortality and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, insurance and investment components, and market risk.

(b) The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, or death or living benefit.

(c) The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable and, for an exchange or replacement, the transaction as a whole is suitable, for the particular consumer based on his or her suitability information.

(d) For an exchange or replacement of an annuity, the exchange or replacement is suitable including taking into consideration all of the following:

(i) Whether the consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits such as death, living, or other contractual benefits, or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements.

(ii) Whether the consumer would benefit from product enhancements and improvements.

(iii) Whether the consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 36 months.

(2) Before the execution of a purchase, exchange, or replacement of an annuity resulting from a recommendation, an insurance producer, or an insurer if no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information.

(3) Except as permitted under subsection (4), an insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe that the annuity is suitable based on the consumer's suitability information.

(4) An insurer's issuance of an annuity shall be reasonable under all of the circumstances actually known to the insurer at the time the annuity is issued. However, neither a producer nor an insurer has any obligation to a consumer under subsection (1) or (3) related to any annuity transaction if any of the following apply:

(a) A recommendation is not made.

(b) A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer.

(c) A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended.

(d) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the insurance producer.

(5) A producer or, if no producer is involved, the responsible insurer representative, shall at the time of sale do all of the following:

(a) Make a record of any recommendation subject to subsection (1).

(b) Obtain a customer-signed statement documenting a customer's refusal to provide suitability information, if any.

(c) Obtain a customer-signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's or insurer's recommendation.

History: Add. 2006, Act 399, Imd. Eff. Sept. 29, 2006;—Am. 2012, Act 544, Eff. June 1, 2013.